

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

WILLIAM VAN OYEN,

Plaintiff,

V.

**MSH CHEVROLET CADILLAC, INC.,
d/b/a ELCO CHEVROLET d/b/a ELCO
CADILLAC,**

Defendant.

Case No. 4:19-CV-2561-SNLJ

MEMORANDUM AND ORDER

Plaintiff William van Oyen brought this employment discrimination lawsuit against his former employer, defendant MSH Chevrolet Cadillac, Inc., d/b/a ELCO Chevrolet and ELCO Cadillac. This matter is before the Court on plaintiff's motion to compel and for sanctions [#48] arising out of witness Gerald McKissic's failure to appear at his deposition. No response has been filed to this motion.

McKissic is a former sales representative at ELCO and a witness to the events described in plaintiff's complaint. On February 3, 2021, plaintiff served McKissic with a subpoena for a deposition to be held on February 11, 2021. McKissic was provided with a check for his witness fee and mileage. Plaintiff's counsel communicated with McKissic by phone and email, and McKissic declined to appear for the deposition.

It appears that plaintiff complied with applicable rules regarding the scheduling of depositions and serving subpoenas to third party witnesses such as McKissic. McKissic simply declined to comply with the subpoena.

Plaintiff seeks an order compelling McKissic to appear for a deposition, a modification of the scheduling order in this case to allow plaintiff time to complete the deposition, and additional time in which to respond to any dispositive motion.

Accordingly,

IT IS HEREBY ORDERED that the motion to compel [#48] is GRANTED.

IT IS FURTHER ORDERED that Gerald McKissic is commanded to appear for a deposition at a mutually agreeable time, no later than May 15, 2021, at the place of deposition indicated on the subpoena, or at another mutually-agreeable location if that place is unavailable.


IT IS FURTHER ORDERED that plaintiff shall be permitted to supplement his response to the pending motion for summary judgment, if necessary, within one week of the date of McKissic's deposition.

IT IS FURTHER ORDERED that the discovery period is extended for the sole purpose of taking Gerald McKissic's deposition though May 15, 2021.

IT IS FINALLY ORDERED that the Clerk shall send a copy of this Memorandum and Order to Gerald McKissic at 735 Chatelet Woods Dr., St. Louis, MO 63135.

**FAILURE TO COMPLY WITH THIS ORDER WILL RESULT IN
SANCTIONS AGAINST GERALD MCKISSIC.**

Dated this 20th day of April, 2021.


STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE